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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,516	07/16/2001	Nathalie Mougin	P 0281573 B00/2208 US	2271

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EXAMINER

SHARAREH, SHAHNAM J

ART UNIT PAPER NUMBER

1617

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/904,516

Applicant(s)

MOUGIN ET AL.

Examiner

Shahnam Sharareh

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25, 27, 28 and 30-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-17, 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-25, 27, 28 and 30-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### DETAILED ACTION

1. Amendment filed on June 9, 2005 has been entered. Claims 1-25, 27-28, 30-34 are pending. Claims 1-17 stand withdrawn for the reasons of record filed on July 02, 2003. Claims 18-25, 27-28, 30-33 were subject to an election of species filed on March July 1, 2004.

2. The newly added claim 34 is directed to a process of using and is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the newly added claim is directed to a distinct invention which is related as process of using the product. The use as claimed cannot be practiced with a materially different product. Since the product is not allowable, restriction is proper between said product and method of using. (MPEP § 806.05(I)). Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 34 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP 821.03.

3. Applicants' election of response to the species filed on September 7, 2004 is acknowledged. Accordingly, a search directed to the elected species wherein:

- R and R': a radical of C<sub>18</sub> H<sub>37</sub>OH,
- X and X': a radical of methylene dicyclohexyl diisocyanate,
- L, L' and L'': a radical of methylene dicyclohexyl diisocyanate,
- P and P': a radical of N-methylethanolamine,
- Y: a radical of polyethylene glycol.

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4. Previous Office Action declared that the scope of the claims to the extent that they read on the elected species is free of art. The instantly claimed directed to such species wherein n, m, p values are 0, R and R' is a hydrophobic group, X and X' is group comprising an amine functional group, L, L' and L'' are represented by the formula  $-Z-C(O)-NH-R_4-NH-C(O)-NH-$ , wherein Z is an NH, P and P' are an amine functional group is also free of art.

Any rejection that is not addressed in this Office Action is considered obviated in view of the amendment, the modification of scope of the claims, and the filing of a Terminal Disclaimer.

5. The search has now been expanded to such species wherein n, p values are 0, m is 1, R and R' is a hydrophobic group, X and X' is group comprising an amine functional group, L, L' and L'' are represented by the formula  $-Z-C(O)-NH-R_4-NH-C(O)-NH-$ , P and P' are an amine functional group, Y is a hydrophilic group.

***Claim Rejections - 35 USC § 102***

6. Claims 18-25, 27-28, 30-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Bucks et al US Patent 6,277,364.

Bucks discloses cosmetic compositions comprising a polyurethane of formula(I). (see col 2, lines 15-45). The polymers of Bucks falls within the scope of the instant claims. (col 20, lines 55-67).

The formula (I) of Bucks comprises the following functional groups that correspond to the instantly claimed functional groups when Bucks' n is 1.

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Instantly claimed functional groups	Corresponding Functional groups in '364	Citations
R and R' are H	Terminal -H	Col 20, lines 5-10.
X and X' are identical and represent a group comprising an amine functional group.	[(YR)m, wherein Y is -NR'-, R' is a lower alkyl or H, R is alkylene, m is so that the MW is from 40-100.	Col 20, lines 17-20.
L, L, L", is -OC(O)NH-R <sub>4</sub> -NH-C(O)-O wherei R <sub>4</sub> is an alkylene	-OC(O)NH-X-NH-C(O)-O, wherein X is an alkylene, n is 1	Col 20, lines 5-15.
(Y)m, wherein Y represent a hydrophilic group and m is 1	(YR)m, wherein Y is NR <sub>1</sub> and R <sub>1</sub> is hydrogen or lower alkyl and R is alkylene etc..	Col 20, lines 5-20.
(P)n, (P)p, wherein n and p are 0		

Bucks' polymer further has the molecular weights that fall within the scope of the instant claims. (see col 22, lines 10-14). Accordingly, Bucks polymers anticipate the limitations of the instant polymers.

### **Conclusion**

No claims are allowed. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

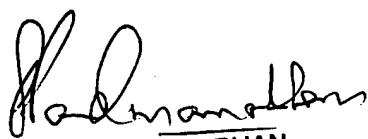
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahnam Sharareh whose telephone number is 571-272-0630. The examiner can normally be reached on 8:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan, PhD can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SS

  
SREENI PADMANABHAN  
SUPERVISORY PATENT EXAMINER